

HOUSE BILL 60

E2

(PRE-FILED)

0lr1056
CF SB 618

By: ~~Delegate Smigiel~~ Delegates Smigiel, Ramirez, Vallario, Barnes, Levi, and Walker

Requested: November 16, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2010

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Violation by Child Sexual Offender of Pretrial or**
3 **Posttrial Release No Contact Order – ~~Expedited Hearing~~ (“Alexis’s Law”)**

4 FOR the purpose of authorizing ~~an alleged victim, a pretrial services representative,~~
5 ~~or a State’s Attorney to request an expedited hearing before a certain District~~
6 ~~Court or circuit court judge if the alleged victim alleges that the defendant has~~
7 ~~violated a certain condition of pretrial or posttrial release; requiring a court to~~
8 ~~issue a bench warrant and schedule a certain expedited hearing under certain~~
9 ~~circumstances; requiring a certain hearing to be held within a certain period of~~
10 ~~time; authorizing a court to revoke or continue a defendant’s release under~~
11 ~~certain circumstances; a police officer to arrest a person without a warrant if~~
12 ~~the police officer has probable cause to believe that the person has violated a~~
13 ~~condition of pretrial or posttrial release; prohibiting a person charged with~~
14 ~~committing a certain sexual crime against a victim who is a minor from~~
15 ~~violating a certain condition of pretrial or posttrial release; establishing a~~
16 ~~penalty for a violation of certain conditions of pretrial or posttrial release; and~~
17 ~~generally relating to violations of conditions of pretrial and posttrial release.~~

18 BY repealing and reenacting, ~~without~~ with amendments,
19 Article – Criminal Procedure
20 Section ~~5-201(a)~~ and ~~5-213~~ 2-203
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Criminal Procedure
 3 Section 5–213.1
 4 Annotated Code of Maryland
 5 (2008 Replacement Volume and 2009 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Criminal Procedure**

9 ~~5–201.~~

10 ~~(a) (1) The court or a District Court commissioner shall consider~~
 11 ~~including, as a condition of pretrial release for a defendant, reasonable protections for~~
 12 ~~the safety of the alleged victim.~~

13 ~~(2) If a victim has requested reasonable protections for safety, the~~
 14 ~~court or a District Court commissioner shall consider including, as a condition of~~
 15 ~~pretrial release, provisions regarding no contact with the alleged victim or the alleged~~
 16 ~~victim's premises or place of employment.~~

17 ~~5–213.~~

18 ~~(a) A court may issue a bench warrant for the arrest of a defendant who~~
 19 ~~violates a condition of pretrial release.~~

20 ~~(b) After a defendant is presented before a court, the court may:~~

21 ~~(1) revoke the defendant's pretrial release; or~~

22 ~~(2) continue the defendant's pretrial release with or without~~
 23 ~~conditions.~~

24 ~~5–213.1.~~

25 ~~(A) IF AN ALLEGED VICTIM ALLEGES THAT A DEFENDANT HAS~~
 26 ~~VIOLATED A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE PROHIBITING~~
 27 ~~THE DEFENDANT FROM CONTACTING, HARASSING, OR ABUSING THE ALLEGED~~
 28 ~~VICTIM OR GOING IN OR NEAR THE ALLEGED VICTIM'S PREMISES OR PLACE OF~~
 29 ~~EMPLOYMENT, THE ALLEGED VICTIM, A PRETRIAL SERVICES REPRESENTATIVE,~~
 30 ~~OR A STATE'S ATTORNEY MAY REQUEST AN EXPEDITED HEARING BEFORE ANY~~
 31 ~~DISTRICT COURT OR CIRCUIT COURT JUDGE OF THE COUNTY IN WHICH THE~~
 32 ~~CASE IS PENDING ON THE MATTER.~~

~~(B) ON THE FILING OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ISSUE A BENCH WARRANT FOR THE ARREST OF THE DEFENDANT AND SCHEDULE AN EXPEDITED HEARING.~~

~~(C) A HEARING SCHEDULED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE HELD NO LATER THAN 2 BUSINESS DAYS AFTER THE FILING OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(D) AT THE CONCLUSION OF THE HEARING, THE COURT MAY:~~

~~(1) REVOKE THE DEFENDANT'S RELEASE; OR~~

~~(2) CONTINUE THE DEFENDANT'S RELEASE WITH OR WITHOUT CONDITIONS.~~

2-203.

(a) A police officer without a warrant may arrest a person if the police officer has probable cause to believe:

(1) that the person has committed a crime listed in subsection (b) of this section; and

(2) that unless the person is arrested immediately, the person:

(i) may not be apprehended;

(ii) may cause physical injury or property damage to another; or

(iii) may tamper with, dispose of, or destroy evidence.

(b) The crimes referred to in subsection (a)(1) of this section are:

(1) manslaughter by vehicle or vessel under § 2-209 of the Criminal Law Article;

(2) malicious burning under § 6-104 or § 6-105 of the Criminal Law Article or an attempt to commit the crime;

(3) malicious mischief under § 6-301 of the Criminal Law Article or an attempt to commit the crime;

(4) a theft crime where the value of the property or services stolen is less than \$500 under § 7-104 or § 7-105 of the Criminal Law Article or an attempt to commit the crime;

1 (5) the crime of giving or causing to be given a false alarm of fire
2 under § 9-604 of the Criminal Law Article;

3 (6) indecent exposure under § 11-107 of the Criminal Law Article;

4 (7) a crime that relates to controlled dangerous substances under Title
5 5 of the Criminal Law Article or an attempt to commit the crime;

6 (8) the wearing, carrying, or transporting of a handgun under § 4-203
7 or § 4-204 of the Criminal Law Article;

8 (9) carrying or wearing a concealed weapon under § 4-101 of the
9 Criminal Law Article; [and]

10 (10) prostitution and related crimes under Title 11, Subtitle 3 of the
11 Criminal Law Article; AND

12 **(11) VIOLATION OF A CONDITION OF PRETRIAL OR POSTTRIAL**
13 **RELEASE UNDER § 5-213.1 OF THIS ARTICLE.**

14 **5-213.1.**

15 **(A) A PERSON CHARGED WITH COMMITTING A VIOLATION OF TITLE 3,**
16 **SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE AGAINST A VICTIM WHO IS A**
17 **MINOR MAY NOT VIOLATE A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE**
18 **PROHIBITING THE PERSON FROM CONTACTING, HARASSING, OR ABUSING THE**
19 **ALLEGED VICTIM OR GOING IN OR NEAR THE ALLEGED VICTIM'S RESIDENCE OR**
20 **PLACE OF EMPLOYMENT.**

21 **(B) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS**
22 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
23 **IMPRISONMENT NOT EXCEEDING 90 DAYS.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.